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SENATE BILL 938

By McNally

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, relative to taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following as a new section:

67-4-508. (a) Notwithstanding any other provision of law to the contrary, on all transfers of realty whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, any county is empowered to levy for county purposes by action of its governing body a tax on the privilege of having the same recorded, which shall be levied and collected in the same manner as the state tax levied by Section 67-4-409(a), provided that no tax under this section shall exceed thirty-seven cents (37¢) per one hundred dollars (\$100), or major fraction thereof. The tax may be levied on any transfer of realty taxable by the state under Section 67-4-409(a).

(b) No resolution authorizing such realty transfer tax shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two (2) consecutive, regularly scheduled meetings.

(c) Any oath required in subsection (a) shall not be introduced as evidence in any proceeding had in connection with any condemnation action for the purpose of indicating the value of such property.

(d) The county registers shall be entitled to receive as a fee for issuing each receipt for taxes imposed in this section the sum of one dollar (\$1.00), to be paid when the tax receipt is issued.

(e) Instruments made pursuant to mergers, consolidations, sales or transfers of substantially all of the assets in this state of corporations, pursuant to plans of reorganization, are exempt from this section.

(f)(1) The recording and re-recording of all transfers of realty in which a municipality is the grantee or transferee shall be exempt from this section.

(2) For purposes of this subsection (f), "municipality" shall have the same meaning as set forth in Section 67-4-409(f)(2).

(g)(1) With respect to any "facility," as defined in Section 67-4-409(h)(2)(A), the taxes paid under this section shall not exceed one hundred thousand dollars (\$100,000) in the aggregate.

(2) In order to qualify for the exception provided under this subsection, prior to the public recordation of any instrument evidencing a transfer of an interest in realty under this section, the grantee or transferee of the interest in such realty must submit a sworn statement declaring the amount of tax paid for recording instruments by or on behalf of the person, corporation, or other entity that owns, leases or otherwise operates the facility, hereinafter the "taxpayer," under subsection (a) with respect to the transfer of realty pertaining to the facility, and a copy of each receipt for the taxes paid for recording

such instruments or other evidence of such payments. No tax will be due if the taxes paid by or on behalf of the taxpayer for recording such instruments pursuant to subsection (a) relating to the facility equal an aggregate amount of one hundred thousand dollars (\$100,000). If less than the aggregate amount of one hundred thousand dollars (\$100,000) in taxes for recording instruments pursuant to subsection (a) relating to the facility has been paid by or on behalf of the taxpayer prior to the proposed recordation of any instrument evidencing a transfer of an interest in realty, the grantee or transferee of an interest in such realty must pay or cause to be paid the amount of tax due, calculated in accordance with this section, which amount shall be no more than the difference between one hundred thousand dollars (\$100,000) and the aggregate amount of such taxes paid by or on behalf of the taxpayer for recording instruments pertaining to the facility pursuant to subsection (a). In no event will the aggregate amount of taxes paid for recording instruments relating to transfers of an interest in realty under subsection (a) exceed one hundred thousand dollars (\$100,000) by or on behalf of the taxpayer.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.